

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: PEG Channels and Video Programming Changes.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE LAWS RELATING TO STATE FRANCHISE FOR
CABLE SERVICE PROVIDERS, THE PEG CHANNEL GRANT FUND, AND
LOCAL GOVERNMENT ALLOCATIONS FOR PEG CHANNELS FROM THE
DISTRIBUTIONS IT RECEIVES FROM THE SALES TAX ON VIDEO
PROGRAMMING, AS REQUESTED BY THE SOUTHEAST ASSOCIATION OF
TELECOMMUNICATIONS OFFICERS AND ADVISORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-350 is amended by adding a new subdivision to read:

"§ 66-350. Definitions.

The following definitions apply in this Article:

- (1) Cable service. – Defined in G.S. 105-164.3.
- (2) Cable system. – Defined in 47 U.S.C. § 522.
- (3) Channel. – A portion of the electromagnetic frequency spectrum that is used in a cable system and is capable of delivering a television channel.
- (4) Existing agreement. – A local franchise agreement that was awarded under G.S. 153A-137 or G.S. 160A-319 and meets either of the following:
 - a. Is in effect on January 1, 2007.
 - b. Expired before January 1, 2007, and the cable service provider under the agreement provides cable service to subscribers in the franchise area on January 1, 2007.
- (5) Pass a household. – Make service available to a household, regardless of whether the household subscribes to the service.
- (6) PEG channel. – A public, educational, or governmental access channel provided to a county or city.

(6a) PEG channel operator. – An entity that does one or more of the following:

- a. Produces programming for delivery on a PEG channel.
- b. Provides facilities for the production of programming or playback of programming for delivery on a PEG channel.

(7) Secretary. – The Secretary of State.

(8) Video programming. – Defined in G.S. 105-164.3."

SECTION 2. G.S. 66-352(a) is amended by adding a new subdivision to read:

"(a) Notice of Franchise. – A person who intends to provide cable service over a cable system in an area must file a notice of franchise with the Secretary before providing the service. A person who files a notice of franchise must pay a fee in the amount set in G.S. 57C-1-22 for filing articles of organization.

A notice of franchise is effective when it is filed with the Secretary. The notice of franchise must include all of the following:

- (1) The applicant's name, principal place of business, mailing address, physical address, telephone number, and e-mail address.
- (2) A description and map of the area to be served.
- (3) A list of each county and city in which the described service area is located, in whole or in part.
- (4) A schedule indicating when service is expected to be offered in the service area.
- (5) The circumstance under which the applicant terminated an existing agreement under G.S. 66-355."

SECTION 3. G.S. 66-357(c) reads as rewritten:

"(c) Initial PEG Channels. – This subsection establishes the minimum number of PEG channels a cable service provider is required to provide to a county or city. The provider will make each channel, up to the initial number of allowed channels, available to a county or city that makes a written request as provided in subsection (b) of this section.

A city with a population of at least 50,000 is allowed a minimum of three initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement whose franchise area includes any portion of the city. A city with a population of less than 50,000 is allowed a minimum of two initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an existing franchise agreement whose franchise area includes the city. For a city included in the franchise area of an existing agreement, the agreement determines the service tier placement and transmission quality of the initial PEG channels. For a city that is not included in the franchise area of an existing agreement, the initial PEG channels must be on a basic service tier, and the transmission quality of the channels must be equivalent to those of the closest city covered by an existing agreement.

A county is allowed a minimum of two initial PEG channels plus any channels in excess of this minimum that are activated, as of July 1, 2006, under the terms of an

existing franchise agreement whose franchise area includes any portion of the county. For a county included in the franchise area of an existing agreement, the agreement determines the service tier placement and transmission quality of the initial PEG channels. For a county that is not included in the franchise area of an existing agreement, the initial PEG channels must be on a basic service tier and the transmission quality of the channels must be equivalent to those of any city with PEG channels in the county.

The cable service provider must maintain the same channel designation for a PEG channel unless the service area of the State-issued franchise includes PEG channels that are operated by different counties or cities and those PEG channels have the same channel designation. Each county and city whose PEG channels are served by the same cable system headend must cooperate with each other and with the cable system provider in sharing the capacity needed to provide the PEG channels.

For purposes of this subsection, a basic service tier is the lowest priced tier available to a subscriber which includes the local broadcast signals."

SECTION 4. G.S. 66-357(d) reads as rewritten:

"(d) Additional PEG Channels. – A county or city that has fewer than seven PEG channels, including the initial PEG channels, is eligible for an additional PEG channel if it meets the programming requirements in this subsection. A county or city that has seven or more PEG channels is not eligible for an additional channel.

A county or city that meets the programming requirements in this subsection may make a written request under subsection (b) of this section for an additional channel. The additional channel may be provided on any service tier. The transmission quality of the additional channel must be at least equivalent to the transmission quality of the other channels provided.

The PEG channels operated by a county or city must meet the following programming requirements for at least 120 continuous days in order for the county or city to obtain an additional channel:

- (1) All of the PEG channels must have scheduled programming for at least eight hours a day.
- (2) The programming content of each of the PEG channels must not repeat more than fifteen percent (15%) of the programming content on any of the other PEG channels.
- (3) No more than fifteen percent (15%) of the programming content on any of the PEG channels may be character-generated programming."

SECTION 5. G.S. 66-358(a) reads as rewritten:

"(a) Service. – A cable service provider operating under a State-issued franchise must transmit a PEG channel by one of the following methods:

- (1) Interconnection with another cable system operated in its service area. A cable service provider operating within 125 feet of the same service area as a provider under a State-issued franchise must interconnect its cable system on reasonable and competitively neutral terms with the other provider's cable system within 120 days after it receives a written request for interconnection and may not refuse to interconnect on these

terms. The terms include compensation for costs incurred in interconnecting. Interconnection may be accomplished by direct cable, microwave link, satellite, or another method of connection. A cable service provider must make a written request for interconnection within 30 days of its receipt of a written request for a PEG channel by a county or city under G.S. 66-357.

- (2) Transmission of the signal from each PEG channel programmer's origination site, if any part of any designated service area of the cable service provider includes any portion of the county or city in which the PEG channel origination site is located."

SECTION 6. G.S. 66-359 reads as rewritten:

"§ 66-359. PEG channel grants.

(a) PEG Channel Fund. – The PEG Channel Fund is created as an interest-bearing special revenue fund. It consists of revenue allocated to it under G.S. 105-164.44I(b) and any other revenues appropriated to it. The e-NC Authority, created under G.S. 143B-437.46, administers the Fund.

(b) Grant Applications. –The e-NC Authority may accept applications for a grant from the PEG Channel Fund from one or more of the following:

- (1) A county.
- (2) A city.
- (3) A PEG channel operator of a PEG channel certified by a county or city as a qualifying PEG channel under G.S. 105-164.44I.

(c) Grant Awards. – In awarding grants from the Fund, the e-NC Authority must, to the extent possible, select applicants from all parts of the State based upon need. Grants from the Fund are subject to the following limitations:

- (1) The grant may not exceed twenty-five thousand dollars (\$25,000).
- (2) The applicant must match the grant on a dollar-for-dollar basis.
- (3) The grant may be used only for capital expenditures necessary to provide PEG channel programming.
- (4) An applicant may receive no more than one grant per fiscal year.

(c) Reports. – The e-NC Authority must publish an annual report on grants awarded under this section. The report must list each grant recipient, the amount of the grant, and the purpose of the grant."

SECTION 7. G.S. 105-164.44I(b) reads as rewritten:

"(b) Supplemental PEG Support. – The Secretary must include the applicable amount of supplemental PEG channel support in each quarterly distribution to a county or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000) for each qualifying PEG channel operated by the county or city. The amount of money distributed under this subsection may not exceed two million dollars (\$2,000,000) in a fiscal year. If the amount to be distributed for qualifying PEG channels in a fiscal year would otherwise exceed this maximum amount, the Secretary must proportionately reduce the applicable amount distributable for each PEG channel. If the amount to be distributed for qualifying PEG channels in a fiscal year is less than two million dollars

1 (\$2,000,000), the Secretary must credit the excess amount to the PEG Channel Fund
2 established in G.S. 66-359.

3 A county or city must certify to the Secretary by July 15 of each year the number of
4 qualifying PEG channels it operates. A qualifying PEG channel is one that meets the
5 programming requirements under G.S. 66-357(d). A county or city may not receive
6 PEG channel support under this subsection for more than seven qualifying PEG
7 channels.

8 The amount included under this subsection in a distribution to a county or city is
9 intended to supplement the PEG channel support available in the amount distributed
10 under this section. The money distributed to a county or city under this subsection must
11 be used by it for the operation and support of PEG channels. For purposes of this
12 subsection, the term "PEG channel" has the same meaning as in G.S. 66-350."

13 **SECTION 8.** G.S. 105-164.44I(e) reads as rewritten:

14 "(e) Use of Proceeds. – A county or city that imposed subscriber fees during the
15 first six months of the 2006-2007 fiscal year must use a portion of the funds distributed
16 to it under subsections (c) and (d) of this section for the operation and support of PEG
17 channels. The amount of funds that must be used for PEG channel operation and
18 support is the proportion of the total funds received under subsection (d) of this section
19 that is the same as the proportion of two times the amount of subscriber fee revenue the
20 county or city certified to the Secretary that it imposed during the first six months of the
21 2006-2007 fiscal year compared to two times the amount of cable franchise tax and
22 subscriber fee revenue the county or city certified to the Secretary that it imposed during
23 the first six months of the 2006-2007 fiscal year. A county or city that used part of its
24 franchise tax revenue in fiscal year 2005-2006 for the operation and support of PEG
25 channels or a publicly owned and operated television station must use the funds
26 distributed to it under subsections (c) and (d) of this section to continue the same level
27 of support for the PEG channels and public stations. The remainder of the distribution
28 may be used for any public purpose."

29 **SECTION 9.** This act becomes effective January 1, 2009.